



The Comptroller General
of the United States

Washington, D.C. 20548

Hipple

Decision

Matter of: Sherwood Van Lines, Inc.- Rate of Valuation of
Damaged Household Goods Shipment

File: B-234162

Date: August 25, 1989

DIGEST

Where origin Traffic Management Officer fails to order full replacement protection in writing on a personal property shipment, but issues a Government Bill of Lading Correction Notice (SF 1200) requiring such protection and carrier's agent has notice of this change prior to pickup of the household goods, the requested protection is effective notwithstanding the failure of the agent or the carrier to acknowledge this correction in writing.

DECISION

Sherwood Van Lines, Inc., requests review of a settlement of our Claims Group, which denied its claim for a return of \$2,096 for damage to the household goods shipment of a U.S. Air Force officer. Sherwood is not disputing prima facie carrier liability, but it does contest the rate used in assessing the damages. The Air Force calculated personal property damages on a full replacement basis and setoff \$2,434 in carrier liability, not accepting \$295 offered by Sherwood based on a liability of 60 cents per pound per article. The Air Force later refunded \$127 for reasons not related to the issue herein. We conclude that the Air Force's application of full replacement value is correct.

BACKGROUND

On June 17, 1986, Government Bill of Lading (GBL) No. CP-791,309 was prepared by the Traffic Management Office at Hanscom Air Force Base, Massachusetts. On July 7, 1986, 4 days prior to pick-up of the household goods, that office issued a SF 1200 Correction Notice to release the shipment at the full replacement protection of \$3.50 times the net weight of the shipment in pounds, or \$21,000, whichever is greater, in accordance with Modification 7 to the Military Traffic Management Command's Household Goods

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Domestic Rate Solicitation 4-2 (RS 4-2), Item 152, effective November 1, 1985. The Air Force's administrative report states that Sherwood's agent, Colvin Van & Storage, received the SF 1200 prior to pick-up on July 11, 1986. Neither Colvin nor Sherwood acknowledged the correction notice in writing, and apparently Colvin never informed Sherwood's driver of the correction but merely forwarded it to Sherwood in routine correspondence. Sherwood itself had no actual knowledge of the correction until August 4, 1986, but delivery of the damaged goods did not occur until October 17, 1986. Sherwood's line-haul bill is based on 60 cents per pound per article of valuation.

Rules contained in RS 4-2, Item 17 (1 Nov 1984), provided that the GBL was released at 60 cents per pound per article for any lost or damaged article unless otherwise specifically provided on the GBL. Sherwood contends that the SF 1200 increasing the valuation to full replacement value is null and void since Sherwood did not accept the correction notice in writing and since there was no provision in either the RS 4-2 or the Department of Defense Personal Property Management Regulation for changing the release valuation after GBL issuance or by means of a SF 1200.

DISCUSSION

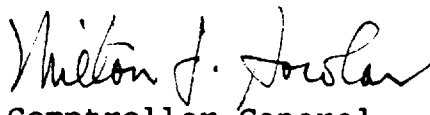
In 1982, the Federal Property Management Regulations were amended to introduce the SF 1200 and provide for its use with personal property (47 Fed. Reg. 50874). The regulation states that "[r]ecipients of a correction notice will alter or correct the GBL as indicated on the notice and attach the form to the GBL." See 41 C.F.R. § 101-41.302-7. It does not require carrier concurrence when increased valuation is involved. Sherwood, through its agent Colvin, was the recipient of a correction notice and was required to correct the GBL, prior to pickup, in accordance with the services requested by the shipper. The terms and conditions on the back of the GBL provide that the bill is governed by 41 CFR 101-41. The issue, therefore, is whether notice to carrier's agent of shipper's desire for full replacement protection, made after the GBL is issued but prior to the pickup of the goods, is binding on the carrier without its written acknowledgement on the SF 1200 or notation on the GBL.

Colvin's knowledge of the transportation transaction and the shipper's intentions, as evidenced by its receipt of notice of the correction of valuation prior to pickup, must be attributed to the principal, Sherwood. See for example, Gordon's Transports, Inc., B-173269, Nov. 29, 1971, and Campbell "66" Express, Inc., B-174694, Feb. 29, 1972, for

analogous situations involving the attribution of the origin carrier's knowledge to all participating carriers. See also 3 Fletcher Cyc Corp (Perm Ed) § 790 (1975). With constructive knowledge of the shipper's changed intentions concerning the service being requested, Sherwood was obliged to seek clarification and correct the shipping documents before the shipment was accepted and its potential liability for damage attached. Coast Counties Express, B-227179, supra.

The written terms and conditions of Sherwood's contract with the government preclude it from ignoring shipper instructions issued prior to pickup. Apart from the duty under 41 C.F.R. § 101-41.302-7 to make corrections, by participating in the RS 4-2 program, Sherwood was certifying that it was offering the services described therein, including full replacement protection. See para. 8, "Certification" at the beginning of RS 4-2. Sherwood's statement that it would not have accepted the shipment if it had known about the requested full replacement protection, therefore, is without merit. If Sherwood participated in the program, it represented that it offered this service, and if it improperly refused this service, it was obliged to notify the government of this refusal prior to acceptance of the goods so that the shipper could obtain the desired service from another carrier. Since Sherwood constructively accepted the goods with knowledge of the shipper's desire for higher valuation and expectation that the carrier would accord full replacement protection, it may not thereafter repudiate the condition upon which the shipment was obtained.

Under RS 4-2, the carrier's return for increased exposure for damage is increased charges. Although the record is not clear, Sherwood may be entitled to undercharges on this shipment and adjustments should be made if that is the case. However, the settlements by the Air Force and our Claims Group with regard to the damage to the household goods are sustained.

for 
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